

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jesus Luis GONZALEZ,

Defendant.

Magistrate Case No. 08MJ8334

**FINDINGS OF FACT AND  
ORDER OF DETENTION**

In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.), a detention hearing was held on April 24, 2008, to determine whether defendant Jesus Luis GONZALEZ should be held in custody pending trial on the grounds that he is a flight risk. Assistant U.S. Attorney John F. Weis appeared on behalf of the United States. Diane Regan of Federal Defenders of San Diego, Inc. appeared on behalf of the Defendant.

Based on the evidence proffered by the United States and the Defendant, the pretrial services report, and the criminal complaint issued against the Defendant on April 28, 2008, by this Court, the Court concludes that the following facts establish a preponderance of the evidence that no condition or combination of conditions will reasonably assure the presence of the defendant at future court proceedings.

I

FINDINGS OF FACT

A. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1))

1. The Defendant is charged in Criminal Complaint No. 08MJ8334 with Assault on a Federal Officer, in violation of 18 U.S.C., Sections 111 and 1114. Therefore, probable cause exists to believe the Defendant committed the charged offense.

2. The charged offense is punishable by a maximum term of 8 years. The base offense level is 14 increased by an additional 5 levels for serious bodily injury. The resulting base offense level is 19. Assuming a Criminal History Level VI, the sentencing range for the defendant, if convicted, is between 63 - 78 months.

B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2)):

1. The weight of the evidence against Jesus Luis GONZALEZ is strong. On April 19, 2008, Defendant was a passenger in a 2007 PT Cruiser, being driven by his mother Nellie Gonzalez, as they entered the United States from Mexico, at the Calexico, California, West Port of Entry.

2. During primary inspection, CBPO Lee discovered a warrant for Defendant's arrest for violation of parole. Defendant was immediately escorted to the vehicle secondary inspection area. Officer Negrón determined that Defendant was a positive match to the armed and dangerous lookout. Officers Cuen and Felix assisted Officer Negrón in getting Defendant out of the vehicle. Defendant got out of the vehicle, began to struggle, and refused to obey officer's commands to stay down. Nellie Gonzalez got out of the vehicle and became argumentative and refused to get back inside the vehicle.

3. During patdown, Defendant attempted to pull away, began to struggle, and attempted to flee. Officers Negrón and Cuen attempted to take Defendant down to the ground. Defendant fell on top of Officer Cuen who was subsequently injured.

4. Defendant stated he was trying to ask officers what was going on and the next thing he knew, a bunch of inspectors were on top of him. Defendant stated they used excessive force.

C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3))

1. The Defendant is a United States citizen.

2. The Defendant resides with his parents in Riverside, California.

3. The Defendant is employed as a foreman for Santa Anita Racetrack.

D. Nature and Circumstances of the Crime Charged (18 U.S.C. § 3142(g)(1):

1. The crime charged in Complaint is a crime of violence. The Defendant has the following criminal history.

10/15/01 - Ct. 1: 11377(A) HS Possess Controlled Substance - No Disposition  
- Ct. 2: 4573.6 PC Possess Controlled Substance, etc. in Prison, etc.- No Disposition  
- Ct. 3: 11550(A) HS Under the Influence Controlled Substance

01/09/02 - Ct. 1: Misdemeanor 484(A) PC Theft -  
180 days jail suspended, 3 years probation, consecutive

Ct. 2: Felony 10851(A) VC Vehicle Theft -  
365 days jail, 3 years prison suspended, 3 years probation, consecutive

Ct. 3: Felony 4532(B)(1) PC Escape Jail, etc Charge, etc with felony -  
8 months prison suspended, 3 years probation, consecutive.

04/22/02 - Bench Warrants:

Ct 1: 11377(A) HS Possess Controlled Substance

Ct 2: 11550(A) HS Use/under influence Controlled Substance

Ct 3: 1320(A) PC Fail to Appear: Misdemeanor Charge

08/05/02 - Ct. 1: 11377(A) HS Possess Controlled Substance -  
Proceedings Suspended/Diversion

- Ct. 2: 11550(A) HS Use/Under Influence Controlled Substance -  
Proceedings Suspended/Diversion - 18 months

06/08/04 - Warrant 10851(A) VC Vehicle Theft

06/11/04 - Bench Warrant 10851(A) VC Vehicle Theft

07/30/04 - Probation Revoked - 44 months prison

02/04/05 - 245(A)(1) PC Force/Assault with a Deadly Weapon not Firearm: GBI likely - 30 days  
jail, 155 fine

02/2005 - 245(A)(1) PC Assault with a deadly weapon

06/2006 - 21453(A) PC Vehicle Stop limit - Bail Forfeiture

06/11/06 - Count 1: 3056 PC

Count 2: Great Bodily Injury Resisting Arrest

Court refers to either of convict - 16 months prison

08/25/06 - Felony 69 PC Obstruct/Resist Executive Officer -16 months prison

07/18/07 - Ct. 1: 451(B) PC Arson:Inhabited Structure/Property -No Disposition  
- Ct. 2: 453(A) PC Possess, etc. Material Device for Arson - No Disposition  
- Ct. 3: 459 PC Burglary - No Disposition  
- Ct. 4: Felony 3056 PC Violation of Parole - No Disposition

II

REASONS FOR DETENTION

A. There is probable cause to believe that the Defendant committed the offense charged in Criminal Complaint No.08MJ8334 with Assault on a Federal Officer, in violation of 18 U.S.C., Sections 111 and 1114.

B. The Defendant faces a substantial period of time in custody if convicted of the offense charged in the Complaint. He therefore has a strong motive to flee.

C. The crime charged is a crime of violence.

III

ORDER

IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.

IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The Defendant shall be afforded reasonable opportunity for private consultation with counsel.

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1 While in custody, upon order of a court of the United States or upon the request of an attorney  
2 for the United States, the person in charge of the correctional facility shall deliver the Defendant to the  
3 United States Marshal for the purpose of an appearance in connection with a court proceeding or any  
4 other appearance stipulated to by defense and government counsel.

5 THIS ORDER IS ENTERED WITHOUT PREJUDICE.

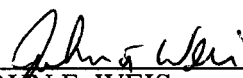
6 IT IS SO ORDERED.

7 DATED: 5-12-08.

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11 PETER C. LEWIS  
UNITED STATES MAGISTRATE JUDGE

12 Prepared by:

13 KAREN P. HEWITT  
14 United States Attorney

15   
16 JOHN F. WEIS  
17 Assistant U. S. Attorney

18 cc: Diane Regan  
19 Federal Defenders of San Diego, Inc.  
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